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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,205	08/29/2003	Steven J. Johnson	45088	7628

1609 7590 05/18/2004

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.  
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WASHINGTON,, DC 20036

EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/651,205

Applicant(s)

JOHNSON ET AL.

Examiner

RAMON O. RAMIREZ

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-28 is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 17 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Detailed Action***

This is the Office Action corresponding to original filing. Claims 1-28 are active.

***Information Disclosure Statement***

Receipt is acknowledged of Information Disclosure Statement, which has been reviewed by the Examiner.

***Drawings***

The drawings have been accepted by the examiner.

***Specification***

The disclosure is objected to because of the following informalities: Applicant is using reference "á" (for example on page 4 paragraph 27 line) to identify an angle but the drawings show it as "σ". Reference numeral used in the specification must correspond to those of the drawings.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rinderer (Pat No 4,967,990).

The patent to Rinderer shows a brace assembly for supporting an outlet box to supports, comprising a brace (21) having a base and mounting surfaces (51) extending from the base at angle greater than 90 degree (see Fig 2). The mounting surfaces having a perpendicular extending flange (53) having a hole for receiving a fastener to secure the brace to the supports.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer.

To make the angle at which the mounting surfaces (51) extend from the base at 94 degree is considered to be an obvious matter of engineering choice, or mechanical expedient in the absent of unexpected results. Rinderer clearly shows it to be more than 90 degrees.

Claims 4, 8-16, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Harris et al. (Pat No 4,050,603).

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The patent to Harris et al. shows a brace assembly for securing an outlet box to supports, comprising telescopic adjustable members each having a mounting surface with a fastener hole and prongs to further secure the brace to the supports.

It would have been obvious to one skilled in the art at the time the invention was made to have made the brace assembly shown by Rinderer with telescopic brace members and the mounting surface with prongs to facilitate the use of the device. The telescopic brace members would permit easier storage, transportation, handling and more versatility of the brace member (since it can adjust its length to different distance between the supports).

The prongs would provide for an additional fastening means of the brace to the supports. As explained above the angle at which the mounting surfaces are formed is considered a matter of engineering choice.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Fast (Pat No 5,040,316).

The patent to Fast shows the use of score lines to remove a portion to adjust to a desired length. It would have been obvious to one skilled in the art at the time the invention was made to have provided the device shown by Rinderer with score lines to adjust the length of the mounting surfaces to facilitate the use of the device and its versatility.

Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinderer in view of Harris et al. and Fast.

The patent to Fast shows the use of score lines to remove a portion to adjust to a desired length. It would have been obvious to one skilled in the art at the time the invention was

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made to have provided the device shown by the combination set forth above with score lines to adjust the length of the mounting surfaces to facilitate the use of the device and its versatility.

*Allowable Subject Matter*

Claims 17 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 23-28 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: none of the art of record discloses a brace assembly comprising first and second telescopic members each having a base, and a tab extends outwardly from an outer surface of the second base of the second brace member, said tab contacting an inner surface of the first base of the first brace member to create an interference fit between said first and second brace members; or a method of using the device following the steps recited in claim 26.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arnold (4,062,512), Kaden (5,150,868) show examples of brace

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assemblies. Hubben et al. (5,782,438) show a mounting system having surfaces (30, 32) extending more than 90 degree from a base.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner **Ramírez** at telephone number (703) 308-0748.

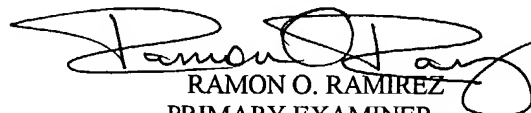
The examiner can be normally reached on Monday-Thursday and alternate Fridays.

The fax numbers for this Group are (703) 872-9306 (official papers), and (703) 308-3519 (unofficial papers).

Any inquiry of general nature relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

A shortened period for response to this Office Action expires **THREE MONTHS** from the mailing date of this action.

R.O.RAMIREZ  
May 13, 2004

  
RAMON O. RAMIREZ  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600  
ART UNIT 3632